

REMARKS

Claims 2, 5, 39, and 40 were rejected and remain pending. Claim 5 has been amended herein to recite that the therapeutic polypeptide that is an essential gene product that allows a virus to replicate. Applicants' specification fully supports this amendment. For example, page 2, lines 1-2 disclose that therapeutic polypeptides can be essential gene products that allow a virus to replicate. Thus, no new matter has been added.

In light of these amendments and the following remarks, Applicants respectfully request reconsideration and allowance of claims 2, 5, 39, and 40.

Rejections under 35 U.S.C. § 103(a)

The Examiner rejected claims 2, 5, 39, and 40 under 35 U.S.C. § 103(a) as allegedly being unpatentable over the Wang *et al.* reference (*Cancer Res.*, 57:5426-33 (1997)) in view of the Liu *et al.* reference (*Chinese Medical Journal*, 113:167-171 (2000)) and the Nowak *et al.* reference (*Seminars in Oncol.*, 29:82-96 (2002)).

Applicants respectfully disagree. To further prosecution, however, independent claim 5 has been amended herein to recite that the therapeutic polypeptide that is an essential gene product that allows a virus to replicate. At no point does the combination of cited references suggest that a person having ordinary skill in the art should make or use the presently claimed viral vector. For example, at no point does the combination of cited references suggest that a person having ordinary skill in the art should replace the luciferase reporter gene in the vector disclosed in the Wang *et al.* reference with any other nucleic acid, let alone a nucleic acid encoding a therapeutic polypeptide that is an essential gene product that allows a virus to replicate. Thus, the combination of cited references does not render the presently claimed invention obvious.

In light of the above, Applicants respectfully request withdrawal of the rejection of claims 2, 5, 39, and 40 under 35 U.S.C. § 103(a).

CONCLUSION

Applicants submit that claims 2, 5, 39, and 40 are in condition for allowance, which action is requested. The Examiner is invited to call the undersigned at the telephone number

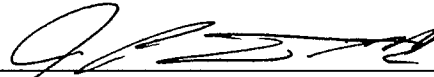
Applicant : Richard G. Vile et al.
Serial No. : 10/533,613
Filed : January 30, 2006
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below if such will advance prosecution of this application. The Commissioner is authorized to charge any fees or credit any overpayments to Deposit Account No. 06-1050.

Respectfully submitted,

Date: July 26, 2007



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